

FILED

SEP 4 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE ABEL GUTIERREZ,

Defendant.

CR 18-04-BU-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 16, 2018. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

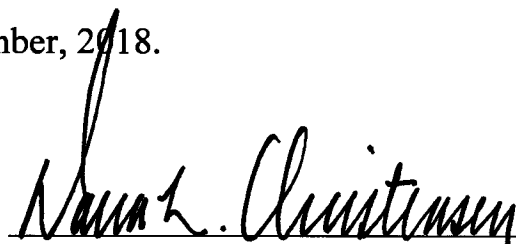
Judge Lynch recommended this Court accept George Abel Gutierrez’s guilty plea after Gutierrez appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of possession,

with intent to distribute, methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count II) as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss both Count I and the allegation of forfeiture in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 97), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that George Abel Gutierrez's motion to change plea (Doc. 64) is GRANTED and George Abel Gutierrez is adjudged guilty as charged in Count II of the Indictment.

DATED this 4th day of September, 2018.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief Judge
United States District Court